

**Notice of Allowability**

Application No.

10/615,723

Examiner

Jegatheesan Seharaseyon, Ph.D

Applicant(s)

ZOON ET AL.

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/3/2006 and 11/14/2006.
2. ☒ The allowed claim(s) is/are 1-18 and 24-28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 7/8/2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

CHRISTINE J. SAOUD  
PRIMARY EXAMINER

*Christine J. Saoud*

### **DETAILED ACTION**

1. This office action is in response to Applicant's election with traverse of Group I filed 8/3/2006. Applicant request the rejoinder based on the fact that claims of similar scope were examined together in the parent Application. The Office will rejoin both Group I and Group II for examination purposes. Therefore, claims 1-18 and 24-28 are pending. Claims 1-5 are amended. The Office also acknowledges the receipt of sequence submission on 11/14/2006.

#### ***Drawings***

2. The drawings filed 7/8/2003 and 2/21/2006 are acknowledged.

#### ***Information Disclosure Statement***

3. The information disclosure statement filed 7/8/2003 has been considered.

### **EXAMINER'S AMENDMENT**

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Tanya M. Harding on 3/20/07 and 3/23/07.

#### **In the Specification**

5. Please replace paragraph 1 with the following amended paragraph:

This is divisional of U.S. Patent Application No. 09/744,754, filed January 24, 2001, now Patent No.6, 685, 933, which is a U.S. National Stage of International

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Application No. PCT/US99/15284, filed July 6, 1999, which was published in English under PCT Article 21 (2), and which claims the benefit of U.S. Provisional Application No. 60/094,407, filed July 28, 1998. Each of the foregoing applications is incorporated herein in their entirety.

**In the claims**

6. Please amend the claims:

1. (Amended) A purified hybrid interferon- $\alpha$  polypeptide, comprising a first amino acid sequence consisting of residues 1-75 of interferon-  $\alpha$ 21b, a second amino acid sequence consisting of residues 76-81 of interferon-  $\alpha$ 2c or residues 76-81 of interferon-  $\alpha$  21b; a third amino acid sequence consisting of the sequence LDKFXTELXQQLND (SEQ ID NO: 43) or the sequence LEKFXTELXQQLND (SEQ ID NO: 44), wherein X is any amino acid residue; and a fourth amino acid sequence consisting of residues 96-166 of interferon-  $\alpha$ 2c; wherein the C-terminal residue of the first amino acid sequence is fused to the N-terminal residue of the second amino acid sequence; and the C-terminal residue of the second amino acid sequence is fused to the N-terminal residue of the third amino acid sequence; and the C-terminal residue of the third amino acid sequence is fused to the N-terminal residue of the fourth amino acid sequence; and wherein the hybrid interferon- $\alpha$  polypeptide has interferon- $\alpha$  protein biological activity.
2. (Amended) The purified hybrid interferon- $\alpha$  polypeptide according to claim 1, wherein the second amino acid sequence consists of residues 76-81 of interferon-  $\alpha$ 2c.

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3. (Amended) The purified hybrid interferon- $\alpha$  polypeptide according to claim 1, wherein the second amino acid sequence consists of residues 76-81 of interferon- $\alpha$  21b.

4. (Amended) The purified hybrid interferon- $\alpha$  polypeptide according to claim 1, wherein the third amino acid sequence consists of the sequence LDKFXTELXQQQLND (SEQ ID NO: 43).

5. (Amended) The purified hybrid interferon- $\alpha$  polypeptide according to claim 1, wherein the third amino acid sequence consists of the sequence LEKFXTELXQQQLND (SEQ ID NO: 44).

#### **REASONS FOR ALLOWANCE**

7. The following is an examiner's statement of reasons for allowance: This application is a divisional of a previously allowed application No:09/744,754. The '754 application described the hybrid interferon- $\alpha$  polypeptide of SEQ ID NO: 13 and nucleic acid of SEQ ID NO: 12. The instant invention is directed to hybrid interferon- $\alpha$  polypeptide of SEQ ID NO: 9, 11, 30, 32, 36, 38, 40 and 42 and the nucleotide of SEQ ID NO: 8, 10, 29, 31, 35, 37, 39 or 41.

8. Claims 1-18 and 24-28 are allowed.

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jegatheesan Seharaseyon, Ph.D whose telephone number is 571-272-0892. The examiner can normally be reached on M-F: 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS  
Art Unit 1647,  
March 23, 2007

**CHRISTINE J. SAUD  
PRIMARY EXAMINER**

*Christine J. Saud*